

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LP MATTHEWS, L.L.C.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 04-1507-SLR
)	
BATH & BODY WORKS, INC.; LIMITED)	
BRANDS, INC.; KAO BRANDS CO.)	
(f/k/a THE ANDREW JERGENS)	
COMPANY); and KAO CORPORATION,)	
)	
Defendants.)	

**LP MATTHEWS' DAUBERT MOTION TO STRIKE THE EXPERT
REPORTS AND EXCLUDE THE TRIAL TESTIMONY OF THE
LIMITED DEFENDANTS' LIABILITY EXPERT JOHN C. CARSON**

Pursuant to the Scheduling Order entered by this Court on June 9, 2005 (D.I. 39), and as set forth in the accompanying memorandum, plaintiff LP Matthews, L.L.C. moves to strike the expert reports, opinions, and proffered trial testimony of Defendants Bath & Body Works, Inc.'s and Limited Brands, Inc.'s ("Limited defendants") alleged liability expert Mr. John C. Carson.

LP Matthews moves to strike Mr. Carson's reports, opinions, and testimony because his inadequate methodology does not meet the Supreme Court's standards for reliability. Mr. Carson's opinions and alleged experiments do not meet the standards for reliability required to be presented to a jury. His opinions depend upon expertise he admits to not having and subjective, self-evaluated experiments so devoid of scientific method that he admits they would not survive scrutiny by his peers. Mr. Carson described his own experiments: "This is by no means a rigorous study. This is by no means something that I would want to peer review or publish in a journal and I think that what I was trying to do was get a feel, get an idea as to how these products performed" and "not a super scientific test, nor well controlled." He "wouldn't

think of” submitting any of his studies in this case for peer review and candidly admitted, “I think the better characterization of my evaluations would be the easier method and not necessarily the most accurate.”

LP Matthews does not seek the exclusion of Mr. Carson’s proposed expert testimony based on the *conclusions* he reached. Rather, this motion seeks to exclude his testimony based on the *inadequate methodology* he used. This distinction between inadequate methodology on the one hand, and the purported expert’s conclusions, on the other hand, lies at the heart of a proper *Daubert* inquiry.

The grounds for this *Daubert* motion are more fully set forth in LP Matthews’ Opening Memorandum Supporting its *Daubert* Motion to Strike the Expert Reports and Exclude the Trial Testimony of the Limited Defendants’ Liability Expert, John C. Carson, filed contemporaneously herewith

ASHBY & GEDDES

/s/ Lauren E. Maguire

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Dated: June 22, 2006
170701.1

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of June, 2006, the attached **LP MATTHEWS' DAUBERT MOTION TO STRIKE THE EXPERT REPORTS AND EXCLUDE THE TRIAL TESTIMONY OF THE LIMITED DEFENDANTS' LIABILITY EXPERT JOHN C. CARSON** was served upon the below-named counsel of record at the address and in the manner indicated:

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